THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17372 of 1995

ORAL ORDER:

It appears, petitioner joined Indian Army w.e.f. 27.8.1962 and immediately on 25.5.1963, he was discharged from service on the ground of Pulmonary Tuberculosis, by granting 100% disability pension. Of course, the disability was reviewed periodically. When it was reviewed on 20.7.1987 by the Medical Board, it was found that the petitioner was suffering with less than 20% disability. As per the rules, person discharged from the Army with less than 20% disability is not entitled to pension. Therefore, it was recommended that the petitioner is not entitled to pension for five years. However, aggrieved by the same, petitioner filed appeal before the Medical Board. It is unfortunate that the Medical Board opined that the petitioner would suffer less than 20% disability for lifetime. Aggrieved by the same, he approached the fourth respondent and on the recommendations of the fourth respondent, the petitioner was again subjected to medical test on 31.7.1992 and the Medical Board has fixed 30% disability for another five years. According to the petitioner, in view of the certificate dated 31.7.1992, he is entitled to 30% disability pension for another five years from 31.7.1992. In spite of there being such a certificate issued by the Medical Board, he is not allowed to draw the disability pension at 30%. Therefore, he filed the present writ petition.

The facts are not much in dispute.

In the counter affidavit filed on behalf of respondents, it is asserted that the medical tests conducted at the behest of the

Grievance Cell on 31.7.1992 fixing 30% disability for five years, are erroneous. It is unfortunate that such a stand was taken by the respondents. The medical test conducted on 31.7.1992 fixing 30% disability for five years is not set aside by any higher authority. Further, no where it is said that the certificate issued by the Medical Board is not genuine or it is not binding on the respondents.

In view of the above, the respondents are directed to consider the case of the petitioner for payment of disability pension at 30% from 31.7.1992 for five years as decided by the respondents. Such disability pension shall be calculated and paid within three months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 21.11.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17372 of 1995

21.11.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17372 of 1995

Date: 21st November, 2006

Between:

Talari Gnanaiah

.. Petitioner

And

Government of India,
Ministry of Defence (Pen.A),
New Delhi & others.

.. Respondents